S.B.Cr.Misc. II Bail App. No. 5407/2007
(Sharwan Lal Vs. State of Rajasthan)

Date of order : 04/12/2007

HON'BLE MR.H.R.PANWAR, J.

Mr. Farzand Ali for the petitioner.

Mr. Ashok Upadhyay Public Prosecutor.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned.

This is second bail application. The first bail application came to be dismissed on 6.9.2007 when the matter was at the investigation stage and the counsel appearing for the petitioner did not press the bail application. Learned counsel for the petitioner submits that after investigation now the police has filed challan and nothing has been recovered from the present petitioner. The co-accused Ambalal who is said to be the owner of the motor cycle on which the contraband poppy straw was alleged to have been transported, has already been released on bail.

On careful perusal of the challan papers, it appears that two persons on a motor cycle on seeing the police left the motor cycle and contraband thereon and fled away, none of them have been identified by the raiding party. Learned counsel for the petitioner submits that on the statement of the co-accused Ambalal, the petitioner has been implicated, there being no other evidence. Co-accused Ambalal was not present as stated and appears from the police papers. There is no other eye witness implicating the present petitioner.

Having regard to the facts and circumstances of the case and the fact that nothing has been recovered from the present petitioner and has not been identified by any of the witnesses, without commenting on the merit of the case, having considered the oral arguments advanced by both the parties, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Sharwan Lal S/o Harji Gujar be released on bail in FIR No. 118/07 P.S. Parsoli provided he executes a personal bond for a sum of Rs. 20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP